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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/311,128	05/13/1999	JOOST KEMINK	PHA-23.501	9837
24737	7590	01/04/2005	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			SHRADER, LAWRENCE J	
			ART UNIT	PAPER NUMBER
			2124	

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/311,128

Applicant(s)

KEMINK, JOOST

Examiner

Lawrence Shrader

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 2,8-10 and 13-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-7; 11, 12; and 18-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This action is in response to the amendment filed on August 9, 2004.
2. Claims 1, 3 – 7, 11 and 12 remain rejected; and claims 2, 8 – 10, and 13 – 17 remain cancelled. Claims 18 – 29 have been added at the request of the Applicant.

#### ***Oath/Declaration***

3. The declaration filed on 5/13/1999 is acknowledged. However, the Applicant must disclose information material to patentability under 37 C.F.R. 1.56, not a portion of 37 C.F.R. 1.56 (in this case 1.56a). See 37 C.F.R. 1.61, which states the declaration must “state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.” A new oath/declaration is required.

The Applicant’s statement on page 8 of the *Amendment and Response* regarding the inclusion of a new declaration in compliance with 37 C.F.R. 1.61 is noted. However, the new declaration does not appear in the submitted documents that are available to the Examiner.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 21 – 24, and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by

Humpleman et al., U.S. Patent 6,198,479 (hereinafter referred to as Humpleman).

**In regard to claim 21:**

*“receiving an identification of at least one device; and*

*providing code for graphically representing a controllable feature of the at least one device on a graphic user interface of a remote control device.”*

Humpleman discloses receiving an identification of at least one device and receiving the code representing the controllable feature of the device on the GUI of a control device, the control device being a browser on a client machine (e.g., Figures 7 and 8 for identification of devices and column 6, line 47 to column 7, line 6 for providing the corresponding code).

**In regard to claim 22, incorporating the rejection of claim 21:**

*“...wherein receiving the identification of the at least one device comprises:*

*providing a list of devices to a user; and*

*receiving a selection of at least one device in the list from the user.”*

See Figures 7, 10, and 11 of Humpleman.

**In regard to claim 23, incorporating the rejection of claim 22:**

*“...further comprising:*

*providing an identification of multiple graphic user interfaces corresponding to one selected device; and*

*receiving a selection of one of the graphic user interfaces from the user, wherein providing the code comprises providing the code corresponding to the selected graphic user interface."*

See Humpleman at column 21, lines 1 – 13 for using macros to present selected customized commands for an HTML control page.

**In regard to claim 24**, incorporating the rejection of claim 21:

*"...wherein providing the code comprises providing the code to an Internet access device capable of providing the code to the remote control device."*

Humpleman discloses an Internet based browser acting as the remote device (column 4, lines 12 – 15; column 10 – 27) and capable of accessing external networks.

**In regard to claim 25**, incorporating the rejection of claim 21:

*"...wherein the at least one device comprises at least one of: a television, a CD player, a DVD player, a computer, a set-top box, a telephone, and a microwave."*

Humpleman discloses an Internet browser device acting as a remote control interface for multiple electronic devices (column 2, lines 27 – 46; column 4, lines 12 – 28; e.g., Figure 10), including at least a DVD player and a television having icons displayed by the programmable user interface to control the devices (e.g., see Figures 7 and 8).

**In regard to claim 29**, incorporating the rejection of claim 21:

*"...further comprising communicating the code to the remote control device."*

See Humpleman column 6, line 47 to column 7, line 6 for providing the corresponding code to the browser (a remote device).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 3 – 7, 18; and 26 – 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Humpleman et al., U.S. Patent 6,198,479 in view of Slivka et al., U.S. Patent 6,049,671 (hereinafter referred to as Slivka).

**In regard to claim 1:**

*“enabling a determination of at least one appliance...”*

Humpleman discloses enabling a determination of at least one device (column 2, lines 34 – 38).

*“determining code for graphically representing a controllable feature...”*

See Humpleman column 2, lines 35 – 38, 60 – 65; and, e.g., Figure 11.

*“communicating the code to the control device...”*

See Humpleman column 6, lines 52 – 66.

*“wherein determining the code includes accessing an Internet site in dependence upon the determination of the at least one appliance.”*

Humpleman discloses a control device that comprises a graphics user interface to determine control code for at least one appliance, but does not explicitly disclose accessing an Internet site upon determination of at least one device. However, Slivka discloses accessing an Internet site in order to upgrade a programmable user interface, e.g., the browser page (e.g.,

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Figure 6; column 11, line 43 – column 12, line 5). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to combine the GUI determining functions of Humpleman with the capability of the Slivka invention to access a remote upgrade programming source over the Internet, because configuration information could then be accessed from any site that has access to the Internet, thus increasing flexibility of use and providing a convenient means to easily maintain the most up to date information as taught by Slivka in the Abstract.

**In regard to claim 3, incorporating the rejection of claim 1:**

*“...extracting a device control profile from a plurality of device control profiles.”*

See Humpleman column 6, line 47 to column 7, line 6.

**In regard to claim 4, incorporating the rejection of claim 1:**

*“...extracting a device control profile in dependence upon at least one of: a location parameter, a time parameter, and a user profile.”*

See Humpleman at column 14, lines 55 – 67 regarding the saving of timer states; and column 14, lines 2 – 11, and Figure 7 for location parameters..

**In regard to claim 5, incorporating the rejection of claim 1:**

*“...communicating appliance control commands to the control device to facilitate the user control of the appliance.”*

See Humpleman column 6, line 47 to column 7, line 6.

**In regard to claim 6, incorporating the rejection of claim 1:**

*“...further including enabling an editing of the code.”*

Humpleman discloses creation of a macro by saving parameters (e.g., Figures 15 and 16).

**In regard to claim 7, incorporating the rejection of claim 1:**

*"...providing a sequence of selection options that lead to the determination of the at least one appliance."*

Figures 7, 8, and 10 of Humpleman are examples of a sequence of selection options that lead to the determination of at least one appliance.

**In regard to claim 18**, incorporating the rejection of claim 1:

*"...wherein the at least one appliance comprises at least one of: a television, a CD player, a DVD player, a computer, a set-top box, a telephone, and a microwave."*

See Figures 7 and 8 of Humpleman.

**In regard to claim 26:**

*"providing an identification of at least one device; and*

*receiving code for graphically representing a controllable feature of the at least one device on a graphic user interface of a remote control device."*

Humpleman discloses receiving an identification of at least one device and receiving the code representing the controllable feature of the device on the GUI of a control device, being a browser (e.g., Figures 7 and 8 for identification of devices and column 6, line 47 to column 7, line 6 for providing the corresponding code).

**In regard to claim 27**, incorporating the rejection of claim 26:

*"...wherein providing the identification of the at least one device comprises:*

*receiving a list of devices from an Internet site; and*

*providing a selection of at least one device in the list."*

Humpleman discloses a control device that comprises a graphics user interface to determine control code for at least one appliance, and Figures 7, 8, and 10 of Humpleman are



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examples of a sequence of selection options that lead to the determination of at least one appliance, but does not explicitly disclose accessing an Internet site upon determination of at least one device. However, Slivka discloses accessing an Internet site in order to upgrade a programmable user interface, e.g., a browser page (e.g., Figure 6; column 11, line 43 – column 12, line 5). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to combine the GUI determining functions of Humpleman with the capability of the Slivka invention to access a remote upgrade programming source over the Internet, because configuration information could then be accessed from any site that has access to the Internet, thus increasing flexibility of use and providing a convenient means to easily maintain the most up to date information as taught by Slivka in the Abstract.

**In regard to claim 28, incorporating the rejection of claim 27:**

*“...further comprising:*

*receiving an identification of multiple graphic user interfaces corresponding to one selected device; and*

*providing a selection of one of the graphic user interfaces, wherein receiving the code comprises receiving the code corresponding to the selected graphic user interface.”*

See Humpleman at column 21, lines 1 – 13 for using macros to present selected customized commands for an HTML control page.

8. Claims 11, 12, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slivka et al., U.S. Patent 6,049,671 in view of Humpleman et al., U.S. Patent 6,198,479.

**In regard to claim 11:**

*"a programmable user interface,"*

Slivka discloses a computer connected to the Internet, the computer being a programmable user interface to the Internet (e.g., Figure 6).

*"a receiver that receives user interface code from an Internet site wherein the user interface code is received in dependence upon at least one of : a location parameter, a time parameter, and a user profile,"*

The computer receives user interface code (upgraded browser software) from the Internet, having time stamp information (a time parameter) associated with the software upgrade (column 11, line 59 – column 12, line 51; column 20, lines 30 – 47; column 22, lines 21 – 41)

*"wherein a programming of the programmable user interface is facilitated by the user interface code;"*

The browser upgrade is facilitated by the interface code (the current network browser) of the programmable user interface to the Internet (column 12, lines 33 – 51).

*"wherein the user interface code is for graphically representing a controllable feature of the one or more electronic devices on the user interface."*

Slivka discloses a computer receiving interface code from the Internet, but does not disclose the interface code graphically representing controllable features of one or more electronic devices (e.g., Figure 6; column 11, line 43 – column 12, line 5). However, Humpleman discloses an Internet browser device acting as a remote control interface for multiple electronic devices (column 2, lines 27 – 46; column 4, lines 12 – 28; e.g., Figure 10). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the browser taught by Slivka with the browser command and control network taught by Humpleman, because one would be motivated to use browser technology to control

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diverse devices using common HTML standards of a browser allowing any browser based appliance to control the electronic devices as taught by Humpleman at column 22 line 60 to column 23, line 5.

**In regard to claim 12, incorporating the rejection of claim 11:**

*“...further includes an Internet access device.”*

Slivka discloses access to a remote source via the Internet (e.g., see Figure 6; column 11, lines 59 – 67).

**In regard to claims 19 and 20, incorporating the rejection of claim 11:**

*“...wherein the one or more electronic devices comprise one or more of: a television, a CD player, a DVD player, a computer, a set-top box, a telephone, and a microwave.”*

*“...wherein the programmable user interface is programmed to display a plurality of icons used to control at least one of the one or more electronic devices.”*

Slivka discloses a computer receiving interface code from the Internet, but does not disclose the interface code graphically representing controllable features of one or more electronic devices (e.g., Figure 6; column 11, line 43 – column 12, line 5). However, Humpleman discloses an Internet browser device acting as a remote control interface for multiple electronic devices (column 2, lines 27 – 46; column 4, lines 12 – 28; e.g., Figure 10), including at least a DVD player and a television having icons displayed by the programmable user interface to control the devices (e.g., see Figures 7 and 8). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the browser taught by Slivka with the browser command and control network taught by Humpleman, because one would be motivated to use browser technology displaying icons to control diverse devices using

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common HTML standards of a browser allowing any browser based appliance to control the electronic devices as taught by Humpleman at column 22 line 60 to column 23, line 5.

### ***Response to Arguments***

9. The Applicant's arguments in regard to claims 1, 3 - 7, 11 and 12 are moot in view of the new grounds of rejection.

#### **The Applicant has argued:**

"Slivka recites a system for upgrading a web browser on a personal computer. (Col. 11, Line 59 - Col. 12, Line 5). The system uses a registry to identify information about the current browser used by the computer. (Col. 12, Lines 6-31). When a user uses the browser to access a web site, the system determines if an upgraded browser is available and offers any available upgraded browsers to the user. (Col. 12, Lines 32-51).

Slivka simply recites a mechanism for updating a web browser on a computer. Slivka lacks any mention of retrieving code used for graphically representing a feature of an electronic device on a remote control unit. As a result, Slivka fails to anticipate a "receiver" that receives "user interface code," which is used for "graphically representing" a "controllable feature" of an electronic device on a "user interface" of a "control device" as recited in Claim 11."

#### **Examiner's response:**

In response to applicant's arguments, the recitation referring to "A control device for remotely controlling one or more electronic devices..." has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a

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structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). The noted recitation is found in the preamble of claim 11. That being said, it can be argued, with a broad and reasonable interpretation, that Slivka discloses a browser, which does acts as a remote control device. It receives user interface code from a remote location every time the browser page is updated, and it is capable of presenting graphical information to the user to control some aspect of another device somewhere else (remotely) on the network. Additionally, Slivka in combination with Humpleman discloses the browser specifically configured to graphically represent control features of electronic devices that are managed on the network.

Judging from the specification (the reference on page 7 to the "Pronto" remote control device) and the drawings (Figures 1 and 2) it appears that the Applicant wants to claim a "*hand held* remote device", but that feature is not expressed in the limitations of the claims. Therefore, the broad interpretation of a browser on a client device as a remote control device still reads on the claims as presented.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lawrence Shrader whose telephone number is (703) 305-8046. The examiner can normally be reached on M-F 08:00-16:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (703) 305-9662. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Lawrence Shrader  
Examiner  
Art Unit 2124

December 15, 2004

*Kakali Chaki*  
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